

MEMBERS

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STATE CONTRACTORS BOARD

**MINUTES OF THE MEETING
JUNE 3, 2003**

1. CALL TO ORDER:

The meeting of the State Contractors Board was called to order by Chairman Michael Zech 8:48 a.m., Tuesday, June 3, 2003, State Contractors Board, Reno, Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

BOARD MEMBERS PRESENT:

Mr. Michael Zech – Chairman
Mr. Douglas W. Carson
Ms. Margaret Cavin
Mr. David W. Clark
Mr. Spiridon G. Filios
Mr. Jerry Higgins

BOARD MEMBERS ABSENT:

Mr. Randy Schaefer

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Mr. George Lyford, Director of Special Investigations
Mr. Frank Torres, Deputy Director of Investigations
Ms. Nancy Mathias, Licensing Administrator

LEGAL COUNSEL PRESENT:

Ms. Carolyn Broussard, In House Counsel
Mr. Bruce Robb, Legal Counsel

Ms. Grein stated that Gary Leonard had posted the agenda in compliance with the open meeting law on May 28, 2003 at the Washoe County Court House, Washoe County Library, and Reno City Hall. The agenda was also posted in both offices of the Board, Reno and Henderson, and on the Board's Internet web page.

It was learned there were 18 items on the amended agenda, each item of an emergency nature. In addition, Ms. Grein requested the majority of the items on the Executive Session be continued to the Henderson Board meeting on June 17, 2003.

It was moved and seconded to hear the amended agenda. THE MOTION CARRIED.

B. UNFINISHED BUSINESS:

Ms. Grein informed the Board that the Legislative Session has adjourned and American Strategies would give a final report at the June 17, 2003 Board meeting in Henderson.

Mr. Zech requested that the Board and Staff members provide an evaluation of the performance of American Strategies.

Ms. Grein Informed the Board that AB220, as amended, that addresses Construction Defects was passed by both houses of the Legislature. Also, SB 310 concerning changes in certain procedures of various Board and Commission was enacted.

In addition, Ms. Grein reported that SB 132 relating to the regulation of mold remediation failed to garner the required two-thirds majority vote required for passage in the assembly. Ms. Grein advised the Board that she spent the final week-end of the legislation session in Carson City to gain support of the legislators to defeat SB 132.

Ms. Grein stated the Nevada State Board of Medical Examiners used the Board's videoconference equipment with great success. Ms. Grein also informed the Board she would explore the feasibility of establishing a short-term agreement for non-governmental boards to rent the boardroom and use of the videoconference equipment.

C. FUTURE AGENDAS:

This matter was continued.

2. APPROVAL OF MINUTES;

Chairman Zech called for a motion to approve the minutes of May 20, 2003.

**It was moved and seconded to approve the minutes of May 20, 2003.
THE MOTION CARRIED.**

3. APPLICATIONS:

A. APPLICATIONS: (CLOSED MEETING PURSUANT TO NRS 241.030)

It was moved and seconded to close the meeting to the public in accordance with NRS 241.030 to discuss financial matters. THE MOTION CARRIED.

AFFORDABLE PATIOS & SUNROOMS, (B-1 PREMANUFACTURED HOUSING)
NEW APPLICATION

Mr. Richard G. Taylor, President of Affordable Patios & Sunrooms was present. The Board informed Mr. Taylor that the license application was granted for a (C-14-H Prefabricated Steel Structures; C14I-Awnings) with a \$50,000 monetary limit and a bond of \$5,000.

SCARECROW STUCCO STONE, (C-18 MASONRY LIMITED TO NONSTRUCTURAL VENEER STONE ONLY) NEW APPLICATION

Mr. Steven C. Crow, President of Scarecrow Stucco Stone was present. The Board informed Mr. Crow that the license application (C-18 Masonry Limited To Nonstructural Veneer Stone Only) was granted with a monetary limit of \$500,000 and a bond of \$15,000.

SIERRA PLUMBING SERVICE, (C-1-D PLUMBING) NAME SIMILARITY, BOARD DECISION

Mr. Brian J. Miller, Owner of Sierra Plumbing; and Ms. Jackie Basagoitia, Owner of Sierra Nevada Plumbing were present. The Board informed the licensees that a name change would not be required.

T W LANDSCAPE CO., (C-10 LANDSCAPE CONTRACTING) NEW APPLICATION

Mr. William F. Royer, Partner of T W Landscape Co. was present. The Board informed Mr. Royer that the license application (C-10 Landscape Contracting) was granted with a monetary limit of \$10,000 and a bond of \$2,000 with a financial statement upon renewal.

MANLEYS BOILER REPAIR CO. INC., (C-1-A BOILERS) NEW APPLICATION, REQUESTING WAIVER OF TRADE EXAM

Ms. Stewart stated the applicant was requesting the trade exam be waived. Staff was recommending approval conditioned upon passage of the examination

Mr. James L. Manley, President of Manleys Boiler Repair Co. Inc., was present. The Board informed Mr. Manley that the license application (C-1-A Boilers) was granted with a monetary limit of \$1,000,000 and a bond of \$20,000 and the trade exam waived.

R & N EQUIPMENT RENTAL, LLC., (A-12 EXCAVATE GRADE TRENCH SURFACE) NEW APPLICATION

Mr. Robert M. Ley, Member of R & N Equipment Rental, LLC. was present. The Board informed Mr. Ley that the license application (A-12 Excavate Grade Trench Surface) was granted with a monetary limit of \$1,000,000 and a bond of \$5,000.

SILVER LINING CONSTRUCTION INTERNATIONAL, LICENSE NO. 48080 ONE TIME RAISE IN LIMIT RECONSIDERATION

Mr. Keith Gregory, Attorney for Silver Lining Construction was present. Based on the representations by Mr. Gregory and those made in a letter from Dennis Green of Pacific Legends Green Valley HOA, dated May 20, 2003, that Silverlingings Construction's bid for the Pacific Legends Green Valley restoration project was hand delivered to Horizon Community Management on May 14th, the one time raise in limit was granted for a monetary limit of \$9000,000 and payment and performance bonds if required.

APPLIED INDUSTRIAL CONTROLS CORPORATION, LICENSE NO. 16825 ONE TIME RAISE IN LIMIT, BOARD DECISION

Mr. Hector R. Juillerat, President of Applied Industrial Controls was present. The Board informed Mr. Juillerat that the one time raise in limit was granted for a monetary limit of \$900,000 and payment and performance bond if required.

The remainder of the applications on the agenda were reviewed and discussion occurred on the following: Nos. 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 23, 24, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 66, 677, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 81, 82, 83, 84, 86, 87, 88, 89, 90; and on the amended agenda: Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18.

**It was moved and seconded to reopen the meeting to the public.
THE MOTION CARRIED.**

B. RATIFICATION OF LICENSE APPLICATIONS, CHANGES OF LICENSURE, REINSTATEMENTS OF LICENSURE:

It was moved and seconded to ratify all applications not specifically discussed in closed session as recommended by staff. THE MOTION CARRIED.

4. DISCIPLINARY HEARING:

SOLANO DEVELOPMENT COMPANY, LTD., LICENSE NO 50086

Mr. Greg L. Rawlings, Managing Member, Solano Development Company, LTD.; Mr. Walter E. Stockman, Member, Solano Development Company, LTD; and Investigator Gary Hoid were sworn in. Mr. Jim Spoo, Attorney for Solano Development Company, LTD., was also present.

Mr. Robb informed the Board that Solano Development Company, LTD., has filed a request for continuance on the Seconded Amended Complaint.

Mr. Spoo stated the Respondent received the Seconded Amended Complaint, on Tuesday May 27, 2003. Therefore, he has not had ample time to file an answer and is requesting a continuance on causes of action 11 through 24 contained in the Seconded Amended Complaint.

It was moved and seconded to grant a continuance on the 11th through the 24th causes of action for 60 days to be heard at the August 5, 2003 Reno Board Meeting. THE MOTION CARRIED.

The hearing was for possible violation of: NRS 624.3017 (1); NRS 624.3013 (5) as set forth in NAC 624.700 (3) (a); NRS 624.3013 (5) as requires by NRS 624.520 (1); NRS 624.720 (2); NRS 624.3012 (2); NRS 624.3013 (3); NRS 624.3013 (4); NRS 624.3013 (2); NRS 624.3011 (1) (a); NRS 624.600 (1) (a) (b); NRS 624.301 (4) (5); NRS 624.203 (6); and NRS 624.3018 (2).

The Board Hearing File, Including but not limited to the Notice of Hearing and Complaint, were entered into the record as Exhibit 1.

Additional photos for the Harmon project was entered into the record as Exhibit 2.

An agreement that Respondent entered into with various homeowners for repair of their projects was entered into the record as Exhibit 3.

A time line of Respondent's payments to homeowners and subcontractors with amounts remaining unpaid were entered into the record as Exhibit 4.

Mr. Spoo stated the Respondent stipulates to the First, Third, Seventh, Eighth, Ninth, and Tenth causes of action. Respondent requests the Fifth cause of action be dismissed, as the contracts were entered into prior to July 1, 2001.

Mr. Hoid testified he validated the complaint filed by the Harmon's and issued a Notice to Correct. Respondent did not comply in a timely manner.

Mr. Hoid testified he validated the complaint filed by the Silva's and issued a Notice to Correct. Respondent did not comply in a timely manner. Mr. Hoid further testified regarding Respondent's failure to include his license number on correspondence with the homeowner.

Respondent's exhibit package relating to the Harmon and Silva cases was entered into the record as Exhibit 5.

Mr. Spoo stated there is common ownership in both companies, however, SierraSage is not a member of the licensee, therefore, Respondent requests the 25th cause of action be dismissed.

The evidentiary portion of the hearing was closed.

It was moved and seconded to address the First; Second; Fourth; Sixth and 25th Causes of Action.

THE MOTION CARRIED.

It was moved and seconded to dismiss the Second ; Fourth and Sixth Causes of Action.

THE MOTION CARRIED.

It was moved and seconded to find Solano Development Company, LTD, license number 50086 in violation of the 1st, 3rd, 7th, 8th, 9th, 10th, and 25th causes of action; and postpone the disciplinary phase of the hearing until the conclusion of the balance of the causes of action are heard on August 5, 2003. Solano Development Company, LTD's license number 50086 will remain suspended.

THE MOTION CARRIED.

5. DISCIPLINARY HEARING/FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION:

SIERRASAGE, LLC., LICENSE NO 52571 (CONTINUED FROM OCTOBER 22, 2002, NOVEMBER 6, 2002, DECEMBER 4, 2002, JANUARY 7, 2003, JANUARY 28, 2003, FEBRUARY 11, 2003, MARCH 11, 2003, APRIL 8, 2003 AND MAY 6, 2003).

(Board Member Randy Schaefer was not present for this hearing, and will not participate in the decision of this case or in any future decisions regarding this case).

Mr. Craig Hamilton, Sierrasage, LLC.; Don Enemark, Sierrasage, LLC.; Ms. Nancy Mathias, Licensing Administrator; Mr. George Lyford, Director of Investigations; and Investigator Mr. Gary Hoid were sworn in. Mr. Mark Gunderson, Attorney for Sierrasage, LLC., was also present.

Mr. Robb stated the disciplinary portion of this hearing was heard at an earlier date. The Board has before them today the Proposed Findings of Fact and Conclusions of Law.

Mr. Gunderson stated Respondent's opposition to certain provisions of the Proposed Finding of Fact, Conclusions of Law.

Ms. Broussard responded by referring to the written transcripts, which support the findings as written.

It was moved and seconded to accept the Proposed Findings of Fact and Conclusions of Law as written. THE MOTION CARRIED.

Mr. Gunderson stated a letter dated May 19, 2003 addressed to Ms. Broussard outlines Respondent's proposal for resolution of the complaint.

The letter to Ms. Broussard dated May 19, 2003 was entered into the record as Exhibit 6.

Mr. Leonard Pugh, Homeowner was sworn in.

Mr. Pugh testified he received a draft settlement agreement on June 2, 2003 that his attorney is reviewing.

Mr. Hamilton stated he has copies of Mr. Rheinschild's financial statement and a financial

package for the Board's review. Mr. Hamilton testified that Mr. Rheinschild was offering a limited personal indemnification in the amount of \$1,000,000 for a period of ninety (90) days.

A summary of accounts payable was entered into the record as Exhibit 7.

Mr. Gunderson stated Respondent would be willing to establish an escrow account and make available all books and records to the Board.

It was moved and seconded to continue this matter to the Henderson Board Meeting on June 17, 2003 for Respondent to provide additional information; Respondent's license will remain suspended. THE MOTION CARRIED.

6. NEW HEARING DATE ON DISCIPLINARY COMPLAINT:

HOLMES CONSTRUCTION, LICENSE NO 28706

Mr. Michael H. Holmes, President, Holmes Construction was present

Mr. Robb informed the Board that Holmes Construction has requested a continuance.

It was moved and seconded to grant a continuance to Holmes Construction, license number 28706 for 90 days. THE MOTION CARRIED.

9. EXECUTIVE SESSION:

E. CONTRACTOR EDUCATION FORUM – JULY 17, 2003:

Ms. Grein informed the Board a Contractor Education Forum was planned for July 17, 2003 and would be video conferenced in Reno. Mr. Richard Peel will provide training on lien laws.

DEPARTMENT REPORTS:

A. LICENSING:

Ms. Kathy Stewart presented the Board with the aging report for the Reno licensing department.

Ms. Mathias provided a report on the status of the RFP for a new database.

B. INVESTIGATIONS:

Mr. Frank Torres presented the Board with the aging report for the Reno investigation department.

The remaining items in the Executive Session were continued to the June 17, 2003 Henderson Board Meeting.

10. PUBLIC COMMENT:

Mr. Robert Jones, Chief Executive Officer for the Builders Association was present. Mr. Jones informed the Board he had sent a letter to Ms. Grein outlining issues of the Builders Association. He requested the matter be addressed at the Reno Board Meeting August 5, 2003.

It was moved and seconded to appoint Board Member Margaret Cavin as Hearing

Officer for the New Application Hearing for Precision Flooring and the Renewal Hearing for McClelland Builders, license number 399374A that will be heard following adjournment of this meeting. THE MOTION CARRIED.

11. ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned by Chairman Michael Zech at 1:52 p.m.

Respectfully Submitted,

Tammy Stewart, Recording Secretary

APPROVED:

Margi A. Grein, Executive Officer

Michael Zech, Chairman

ADJUDICATING BOARD MEMBER: MARGARET CAVIN

7. NEW APPLICATION HEARING:

PRECISION FLOORING:

Mr. Eugene Wyant, III, Partner, Precision Flooring; Mr. Darwin Cranor, Jr., Partner, Precision Flooring, Ms. Kathy Stewart, Licensing Supervisor; and Criminal Investigator Fred Schoenfeldt were sworn in.

The hearing was for failure to demonstrate good character as set forth in NRS 624.265 (1) (a); misrepresentation of material fact as set forth in NRS 624.3013 (2); and failure to establish financial responsibility as set forth in NRS 624.263.

The Board Hearing File, including but not limited to the Notice of Hearing and Complaint, were entered into the record as Exhibit 1.

Mr. Schoenfeldt testified he conducted a background investigation on Mr. Wyant. Mr. Wyant failed to disclose a felony conviction, and two or more convictions of a misdemeanor in the past ten years.

Ms. Stewart testified that the financial statement did not support the license limit requested. Ms. Stewart further testified Mr. Wyant filed for Chapter 7 Bankruptcy in 2001.

Mr. Wyant testified he has more money to put into the account.

Mr. Cranor testified he would be willing to provide a personal financial statement and will personally indemnify the license.

The evidentiary portion of the hearing was closed.

Hearing Officer Cavin found to grant the license in 60 days; Applicant is to provide a personal financial statement and personally indemnify the license; if no response is received from the applicant the license will be denied.

8. RENEWAL HEARING:

MCCLELLAND BUILDERS, LICENSE NO. 39374A

Mr. David McClelland, Owner, McClelland Builders; Mr. Darrell McClelland, Personal Indemnify of McClelland Builders; Ms. Diana Wallace, License Analyst; and Investigator Gary Hoid were sworn in.

The hearing was for failure to comply with a written request from the board as set forth in NRS 624.302; and failure to establish financial responsibility at the time of renewal of the license or any other time when required by the board as set forth in NRS 624.3013 (3).

The Board Hearing File, including, but not limited to the Notice of Hearing and Complaint, were entered into the record as Exhibit 1.

Ms. Wallace testified the application was denied for failure to establish financial responsibility and failure to comply with the terms of probation. Ms. Wallace stated the financial statement did not support the license limit. As a condition of licensure the Respondent was to provide monthly reports of all construction activities. Respondent did not provide the monthly reports between December, 2001 and November, 2002. Ms. Wallace further testified that a new financial statement was received that day.

Applicant's new financial statement was entered into the record as Exhibit 2.

Mr. Hoid testified Applicant has provided monthly reports since December 2002.

Mr. McClelland testified he was confused about the monthly reporting process. He was calling Mr. Torres with monthly reports. He has provided the monthly reports since December, 2002 and will continue to do so. Mr. McClelland further testified his father has provided a personal financial statement and is personally indemnifying the license. Mr. McClelland stated he has his monthly report for May, 2003 for review.

Applicant's monthly report for May, 2003 was entered into the record as Exhibit 3.

The evidentiary portion of the hearing was closed.

Hearing Officer Cavin granted the renewal of license number 39374A, McClelland Builders & Excavation; the probation status is continues for another year including monthly reports with copies of all contracts; McClelland Builders & Excavation, license number 39374A failed to comply with the terms of probation license will be automatically suspended.

ADJOURNMENT:

There being no further business to come before the Board, the meeting was adjourned by Adjudicating Board Member Margaret Cavin at 2:42 p.m.

Respectfully Submitted,

Tammy Stewart, Recording Secretary

APPROVED:

Margi A. Grein, Executive Officer

Margaret Cavin, Adjudicating Board Member